AMENDMENTS TO THE DRAWINGS:

The attached sheets of drawings include changes to FIGS. 5, 6 and 13. These sheets replace the original sheets filed with this application including FIGS. 5, 6 and 13. In FIG. 5, reference number 208 has been deleted and the "arrow" associated with reference number 200 has been redirected as shown. In FIG. 6, the reference number 222 has been deleted. In FIG. 13, the previously omitted reference number 560 has been added and previously submitted reference number 577 has been changed to 572.

Attachment: Replacement sheets of drawings

REMARKS

The Examiner has raised objections to the drawings of Figs. 5, 6 and 13 for the reasons set forth in the Office Action. More particularly, the Examiner has raised objections to Fig. 5 on the basis that reference numeral 208 is not mentioned in the specification. Reference numeral 208 has been deleted from the replacement drawings submitted herewith. The Examiner has likewise raised objections to Fig. 6 on the basis that reference numeral 222 is not mentioned in the specification. Applicant has likewise deleted reference numeral 222 from the replacement drawings submitted herewith. Still further, the Examiner has raised objections to Fig. 13 in that reference numeral 577 should be corrected to 572 and that reference numeral 560, although mentioned in the specification, is not shown in Fig. 13. Applicant has deleted reference numeral 577 and replaced it with reference numeral 572, and Applicant has added reference numeral 560 to Fig. 13. These changes are set forth in the replacement sheet for Fig. 13 attached hereto. The enclosed replacement sheets replace the original sheets filed with this application which included originally filed Figs. 5, 6 and 13. No new matter has been added to the drawings.

Applicant has also amended paragraph 46, line 8 of the specification in accordance with the Examiner's suggestions wherein Fig. "9B" has been corrected to properly read Fig. "9A".

Claims 11-26 and 30-39 stand rejected under 35 U.S.C. §103A as being unpatentable over U.S. Patent No. 5,585,156 (Fontana reference) in further view of U.S. Patent Application Publication No. 2004/0138905 (Stinson et al). Claims 1-10 and 30-39 stand withdrawn from consideration in the present application. In light of the prior art cited against the present claims as explained below, Applicant has amended claims 11, 21, 22, 26, 34 and 39. Applicant has cancelled claims 12-14, 20, 23-25, 30-33 and 35-38.

The Fontana reference relates to the printing of a law tag or label for mattresses or other bedding whereas the Stinson et al reference relates to a method and system for printing pictorial representations of fabric samples and other finishes in electronic form such as fabric samples typically displayed in catalogs. As will be hereinafter further explained, it is respectfully submitted that the Stinson et al reference has nothing to do with printing labels or tags which are to be attached to or otherwise associated with a particular product as is true with respect to the present invention and that the use of the term "label" in the Stinson et al reference does not refer to a label or tag as used in the present claims. As a result, the Fontana and Stinson et al references are not properly combinable because they are not from the same field of endeavor, that is, creating, displaying and printing labels for use in attaching such labels to products, namely, mattresses and there is no suggestion or motivation in the prior art to combine these references. A detailed explanation follows.

The Fontana reference discloses a business form 30 as best illustrated in Fig. 3 which includes a substrate 31 of laser compatible and printable uniform stock material wherein lines of weakness 32, 35 and 37 divide the substrate 31 into portions 33, 34, 36, 33′, 34′ and 36′. The portions 36 and 36′ are further divided into subportions or into work tabs 40 and 40′ by transverse perforation lines 39. The portions 36 and 36′ are used by workers manufacturing the bedding to provide them credit for the work they do. At different stages of manufacture, workers will tear off the work tabs 40 associated with each different mattress they work on, with bar coding 41 thereon, and they will put these tabs 40 on a board 56 as illustrated in Fig. 5 so that the worker will get credit for having worked on the mattress when the bar codes are scanned. Although the Fontana reference does disclose impregnating the stock substrate forming the business form 30 with a tear resistant saturant and coating such substrate with a toner receptive

material for laser jet printing thereon, as the Examiner correctly points out, the Fontana reference does not disclose selecting information for printing onto a label from any type of a computer database. Also, importantly, the overall structure of the Fontana label or business form 30 including its associated tear-off portions is different from the fabric label disclosed in the present application. Nevertheless, in any event, as the Examiner has suggested, Fontana does not disclose selecting information from any type of computer database for printing onto a label or tag that is to be attached or otherwise associated with a mattress or other product.

More importantly, the Stinson et al reference has nothing to do with printing any type of information onto a label or tag that is to be attached to or otherwise associated with a mattress or other product. More specifically, the Stinson et al method and system, as clearly explained in paragraphs 24-27, is directed to printing a pictorial representation of what a particular fabric sample or floor finish sample would look like, in electronic form, so that a particular business entity may print pictorial representations of such fabric and finish samples and present them to perspective customers. As clearly explained in paragraphs 25 and 26, these samples would be similar to samples illustrated in catalogs where a specific fabric and/or floor finish sample may be illustrated for customers. In the example illustrated in paragraph 26 of the Stinson et al reference, a furniture manufacturer may want to sell an upholstered chair and only 40 of the 5000 total fabrics offered by the furniture manufacturer may be suitable for use on a particular model of chair. The Stinson et al method and system is configured to associate only those 40 suitable fabrics with the particular model of upholstered chair and, as clearly set forth in Table 1 illustrated in paragraph 49, these images can be either printed or saved in PDF format and are added to a project file which can be emailed to anyone for further discussion, opinions, and approvals. Clearly, the Stinson et al reference merely discloses printing pictorial representations

of fabric samples, it does not disclose printing labels to be attached to mattresses or other types of products.

Also, importantly, as explained in paragraph 19 of the Stinson et al reference, what is identified as label information to be applied to content or media actually refers to a brand or logo, pricing information, and other descriptive information that would be associated with the particular pictorial representation of the sample that is being printed. Importantly, this information is not being printed onto a label to be attached to a mattress or other product, but instead, is merely additional brand information, as explained in paragraph 19, which is printed in association with the pictorial representation of the fabric sample. All of the representations and data information that are printed via the Stinson et al method and system are printed on standard paper whereas all of the information printed in association with the present invention are printed onto a fabric label that is physically attached or otherwise associated with a mattress or other product.

As clearly indicated in paragraph 20, the Stinson et al invention relates to the printing of samples such as surface materials utilized in the fabric and finish industry, for example, upholsteries, seating fabrics, panel fabrics, vinyls, paints, laminates, stains, and so forth. Again, the Stinson et al method and system merely prints a pictorial representation of these surface materials for customer viewing. This interpretation is further strengthened and evidenced by paragraph 41 wherein it clearly states that "surface material sample images are processed to show color, pattern and texture accurately for a wide variety of light temperatures and environmental conditions." Still further, paragraph 46 further evidences this interpretation by stating . . . . "sample and relationship codes may be configured for a particular business entity to define what surface material samples or groups of surface material samples to display to the

business entity's customers". This data is only segregated for display purposes, not for printing labels as defined in the present invention. Still further, as indicated in paragraph 54 of the Stinson et al reference, block 408 of Fig. 4 again only refers to printing a pictorial representation of the surface material sample. As paragraph 54 states, "the response includes a graphical representation of the requested surface material sample and the custom label information associated with the sample – as may be specified by the business entity".

Still further, all of the claims associated with the Stinson et al reference relate to a method for presenting surface material samples over a computer network. All of the independent claims use the word "presenting", not printing, surface material samples and the method or system requires associating one or more surface material samples with a business entity wherein at least one of the surface materials samples is labeled with information specified by that particular business entity; receiving a data request for at least one of the surface materials samples; and responding to the data request wherein the response includes at least one of the surface materials samples and the associated information. Other claims include providing access to an online catalog of surface materials samples and, importantly, wherein one or more of the surface materials samples are mapped onto a multi-dimensional representation of an object (see claims 11 and 20). Use of the term "presenting" further evidences the fact that the Stinson et al method and system is designed to present for printing a pictorial representation of a particular surface material sample. It has nothing to do with accessing, creating and printing fabric labels as defined in the pending claims. For these reasons, it is respectfully submitted that the Stinson et al reference does not disclose selecting information for a fabric label from a computer database in paragraphs 18-20 and paragraphs 52-54 as disclosed and claimed in the present application; and it is respectfully submitted that the Stinson et al reference is not in the same

field of endeavor as the present application and is not properly combinable with the Fontana reference.

The Examiner has further indicated that the Stinson et al reference, at paragraphs 18-20 and 52-54, discloses the selecting of information for a fabric label from a computer database. Again, a reading of paragraphs 18-20 and paragraphs 52-54 clearly reveals that the Stinson et al method merely presents content in the form of surface material samples which include a pictorial representation of that particular material and that the label information referenced in paragraph 19 is not information to be printed on a label to be attached to a product or mattress as claimed in the present application, but such label information merely applies to the items referenced in paragraph 19 such as a brand or logo, pricing information and other descriptive information which is printed in association with the pictorial representation of the surface material sample. It is not information which is selected through a controlled process for creating and printing onto a label for attachment to a mattress or other product. Still further, as specifically referenced in paragraph 54, and as clearly set forth in FIG. 4, the typical response includes presenting a graphical representation of the requested surface material sample and the custom information associated with that sample. It is merely printing a copy of the surface material sample displayed on the computer screen the same way you or I can print a sample of any object displayed on the computer screen such as in an online catalog. This is not Applicant's invention. The Examiner's reference to paragraphs 18-20 and 52-54 for supporting his conclusion that the Stinson et al reference discloses selecting information for a fabric label from a computer database is therefore not accurate.

It should also be pointed out that the International and U.S. classifications for the Fontana reference which is related to printing a label for a mattress tag is totally different than the

International and U.S. Classifications identified with respect to the Stinson et al reference. This is further evidence that the Fontana and Stinson et al references are not related and that the process disclosed in the Fontana reference is not compatible with the process disclosed in the Stinson et al reference.

The Examiner also relies heavily on paragraphs 44-48 of the Stinson et al reference for the proposition that the Stinson et al device discloses controlling access to specific product information so that different users can only create product labels that have been authorized for each particular user. In reviewing paragraphs 44-48 of the Stinson et al reference it is respectfully pointed out that the method and system of Stinson et al merely segregates such information for displaying such information to the business entity's customers. There is no disclosure in paragraphs 44-48 relating to printing such information onto a fabric label for use on a mattress or other product. In fact, as specified in paragraph 46, it is the business entity that may define some or all of the data that pertains to that business entity's surface material samples.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claim combination or combine the references and the reasonable expectation of success must both be found in the prior art and not based on the Applicant's disclosure. In re Vaeck, 947 F.2d 488, (Fed. Cir. 1991).

With regard to the first criteria for a suggestion or motivation to modify or combine references, obviousness can only be established by combining or modifying the teachings of the

prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. The test for an implicit showing is what the combined teachings, knowledge or one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art. In re Kotzab, 217 F.3d 1368, (Fed. Cir. 2000). However, the mere fact that the references can be combined or modified does not render the result and combination obvious unless the prior art also suggests the desirability of a combination. In re Mills, 916 F.2d 680, (Fed. Cir. 1990). The fact that the prior art references may be capable of being modified to function as the claimed apparatus, there must be a suggestion or motivation in the reference to do so. In re Mills, 916 F.2d 682, (Fed. Cir. 1990). Further, a statement that modifications of the prior art to render the claimed invention would have been well within the ordinary skill of the art because the prior art relied upon teach that all aspects of the claimed invention were individually known is not sufficient to establish obviousness without some objective reason to combine the teachings of the references. In re Kotzab, 217 F.3d 1368, (Fed. Cir. 2000), also see In re Sang Su Lee, 277 F.3d 1338, (fed. Cir. 2002). Also, the proposed modification cannot render the prior art invention being modified unsatisfactory for its intended purpose because there would be no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, (Fed. Cir. 1984). The Patent Office must make the necessary findings and provide an administrative record showing the evidence on which its findings are based and its reasoning in reaching its conclusion. See *In re Zurko* 59 U.S.P.Q.2d 1693, 1697 (Fed. Cir. 2001). When patentability turns on the question of obviousness, the search for and analysis of the prior art must include evidence relevant to the finding of whether there is a teaching, motivation or suggestion to select

and combine the references relied on as evidence of obviousness. See *In re Sang Su Lee,* 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002) (00-1158) citing *McGinley v. Franklin Sports, Inc.*, 60 U.S.P.Q.2d 1001, 1008 (Fed. Cir. 2001). There must be a reason to combine the references. The reason to combine references must be based on objective evidence of record. A showing of a suggestion, teaching or motivation to combine the prior art references is an essential component of an obviousness holding. *C. R. Bard, Inc. v. M3 Systems, Inc.*, 48 U.S.P.Q.2d 1225, 1232 (Fed. Cir. 1998).

Particular findings must be made as to the reason why a skilled artisan with no knowledge of the claimed invention would have selected the components for combination in the manner claimed. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000). The Patent Office must identify specifically the principal, known to one of ordinary skill that suggests the claimed combination. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1459 (Fed. Cir. 1998). The Patent Office must explain the reasons why one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious. Further, the Patent Office can satisfy the burden of showing obviousness of the combination only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill would lead that individual to combine the relevant teachings of the references. See *In re Fritch*, 23 U.S.P.Q. 1780, 1783 (Fed. Cir. 1992). The factual question of motivation is material to patentability and cannot be resolved on subjective belief and unknown authority. It is improper, in determining whether a person or ordinary skill would have been led to this combination of references simply to "use that which the inventor taught against the teacher." *W. L. Gore v. Garloch, Inc.*, 220 U.S.P.Q. 303, 312-13 ((Fed. Cir. 1983). The Patent Office must examine the relevant data and articulate a satisfactory explanation for its action or position including a

rational connection between the facts found and the choice made. *Motor Vehicles Manufactures Association v. State Farm Mutual Automobile Ins. Co.*, 463 U.S. 29, 43 (1983).

Where a trade off between features is required to produce an invention from a combination of references, motivation to combine requires the tradeoff be desirable not just feasible. See *Winter International Royalty Corp. v. Wang*, 53 U.S.P.Q.2d 1580 (Fed. Cir. 2000).

It is improper to apply an obviousness to try standard or indulge in hindsight evaluation or reconstruction. See *Ecolochem, Inc. v. Southern California Edison Co.*, 56 U.S.P.Q.2d 1065 (Fed. Cir. 2000).

It has been held that supporting a rejection on common knowledge and common sense is also inappropriate. Reference to common knowledge without evidence in support or explanation in support is inappropriate. See *Smiths Industries Medical Systems, Inc. v. Vital Signs, Inc.*, 51 U.S.P.Q.2d 1415, 1421 (Fed. Cir. 1999). Failure to articulate an appropriate reason for the rejection is fatal to the position of obviousness. The Patent Office cannot merely make conclusory statements when dealing with particular combinations of prior art but must set forth the rationale on which it relies. *In re Sang Su Lee, supra.* Thus, it is improper to state a combination is within ordinary skill in the art without support.

An appropriate analysis in the determination of obviousness may not indulge in the forbidden hindsight evaluation. "Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references. *In re Dimbiczak* 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). It has also been held that teachings of references can be combined only if there is some suggestion or incentive to do so. See *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984).

Reasoned findings are critical to the performance of an agency's functions and judicial reliance on agency findings. Absent reasoned findings based on substantial evidence, effective review would become lost in the haze of so called expertise. See *Baltimore and Ohio Railroad Co., v. Aberdeen & Rockfish Railroad Co.*, 393 U.S. 87, 91-92 (1968).

Another important consideration in the determination of obviousness is who is one of ordinary skill in the art and what is the level of ordinary skill in the art. One cannot determine if an invention would have been obvious to one of ordinary skill in the art without determining who that person would be. Several factors are evaluated to determine the level of ordinary skill. Those factors include: 1) the types of problems encountered in the art; 2) the prior art solution to those problems; 3) the rapidity of innovation; 4) the sophistication of the technology; and 5) the educational level of active workers in the field. See *Ruiz v. A. B. Chance Co.*, 57 U.S.P.Q.2d 1162 (Fed. Cir. 2000).

It is therefore Applicant's position that there is no suggestion or motivation to combine the Stinson et al reference with the Fontana reference since the Stinson et al reference is classified in a totally different International and U.S. class and the process and method associated with the Stinson et al reference, as explained above, does not relate to creating, displaying and printing a label or tag to be attached to a mattress or some other product as clearly defined in the presently pending claims. It is also Applicant's position, as explained above and as set forth in the case law, that one of ordinary skill in the art would not have looked to the Stinson et al reference to combine features and that the Examiner has not articulated why one of ordinary skill in the art would have been motivated to combine the Stinson et al reference with the Fontana reference for all of the reasons discussed above and for additional reasons set forth below.

Independent claims 11, 26, 34 and 39 as currently amended all now specifically require that the process for creating and printing a label or the process for displaying and printing a label is directed to a label to be attached to or otherwise associated with a product such as a mattress (claim 26) utilizing a computer system. It is respectfully submitted that the surface material samples described and claimed in the Stinson et al reference are not directed to any type of labels which are to be printed for attachment to a particular product such as a mattress. In addition, claims 11, 26, 34 and 39 all specifically require that selection of the information occurs at a first location; that the fabric label includes a toner receptive coating associated with the top side of the label; that specific product information directed to a single product is selected at the first location; that a selected fabric label is loaded into a laser jet printer wherein the fabric label has general product information associated therewith that was printed at a second location; and that printing of the specific product information onto the toner receptive coating associated with the top side of the fabric label is accomplished at the first location. Also, importantly, claims 11, 26, 34 and 39 all specifically require controlling access to the specific product information from the database so that different users can only create and print product labels for attachment to or in association with a particular product that has been authorized for each particular user, each user having access to specific product information for a selected number of particular products. Although the Fontana reference discloses printing onto a toner receptive material at a first location, it does not disclose selecting specific product information from a computer database, nor does it disclose controlling access to such specific product information for creating and printing product labels as defined by claims 11, 26, 34 and 39. The Examiner is relying upon the Stinson et al reference for a disclosure relating to selecting information for a fabric label from a computer database. As clearly set forth above, the Stinson et al reference has nothing to do with

selecting information for creating and printing onto a fabric label. As explained above, the Stinson et al reference merely allows a user to print a pictorial representation of a particular surface material sample. It does not control access to specific product information that is directed for creating and printing product labels for attachment to a product; it does not enable a user to load a fabric label having general product information associated therewith which was printed at one location and thereafter enable such user to print the specific product information at another location wherein the fabric label will be attached to or otherwise associated with a specific product. Applicant is not claiming selection of specific information from a computer database in a vacuum, but is incorporating such very specific computer related features into a process for specifically creating and printing labels to be attached to a mattress (claim 26) or other product as specified in the pending independent claims.

In addition, currently amended independent claim 26 is specifically directed to creating and printing a fabric label to be attached to a mattress. Again, the combination of combining the Fontana and Stinson et al references does not yield a process for creating and printing a fabric label where specific selected information is selected through a computer database having all of the specific features identified in independent claim 26 including controlling access to specific mattress information and printing such specific mattress information onto a particular selected mattress fabric label. It is the combination of the specific computer data features defined in all of the present independent claims along with the ability to either create and print or display and print such specific product or mattress information directly onto a specific product or mattress fabric label that is unique and novel with respect to the present process. Again, it is Applicant's position that the Stinson et al reference does not relate to creating and printing any type of label much less a mattress label as defined in the present pending claims and, as such, is not properly

combinable with the features of the Fontana reference. There is no suggestion or motivation to combine such references.

Nevertheless, even if the Stinson et al features are combined with the Fontana features, there is no disclosure of the specific computer database features and control aspects in association with creating, displaying and printing a specific product label as defined in all of the presently pending and currently amended independent claims. Also, importantly, the Stinson et al reference is specifically directed to merely presenting in pictorial graphic representation form the surface material samples that one would ordinarily see in a catalog and all of the claims in the Stinson et al reference are directed to just that feature including providing access to an on-line catalog of the surface material samples. This is totally different from the process claimed in the present application. Presenting a pictorial graphic representation of a carpet sample or furniture sample and mapping that carpet sample or furniture sample onto a multi-directional representation of an object is not what the claims of the present application are directed to.

Independent claims 34 and 39 are patterned after independent claim 11 and all of the arguments set forth above are equally applicable to these two independent claims. More specifically, independent claims 34 and 39 are directed to displaying and printing a product label as compared to creating and printing a product label. All of the other limitations and features associated with independent claims 11 and 26 are likewise included in independent claims 34 and 39. For all of the above reasons, independent claims 11, 26, 34 and 39 are clearly and patentably distinguishable over all of the cited prior art references including the Fontana and Stinson et al references, either alone or in any combination thereof as set forth and explained above.

Since all of the dependent claims remaining in the case depend from the above-identified independent claims, these dependent claims are likewise now in allowable condition.

The Examiner has correctly indicated that the Fontana reference does not disclose expressly selecting information from a fabric label from a computer database; displaying a plurality of fabric labels having general product information that is applicable to a plurality of products on at least one electronic display; selecting one fabric label from a plurality of previously displayed fabric labels and displaying a plurality of specific product information that is directed to a single product for the selected fabric label on the at least one electronic display; accessing a plurality of electronic files through a global computer network at a first location with each electronic file having general product information that is applicable to a plurality of products that is capable of being conventionally printed on a fabric label with a printing press at a second location; and accessing a second plurality of electronic files through a global computer network at a first location in which each file directed to specific product information. None of these features are disclosed or even suggested in the Fontana reference. Instead, the Examiner relies upon the Stinson et al reference for disclosure of all of the features not disclosed or suggested in the Fontana reference. For all of the reasons set forth above, it is Applicant's position that the Stinson et al reference does not disclose the computer database features set forth and defined in all of the presently pending independent claims in the present application for the specific applications defined therein, nor does the Stinson et al reference provide the necessary suggestion and/or motivation for creating, displaying, and printing fabric labels for attachment to mattresses or other products as specifically defined and claimed in the presently pending claims. As a result, it would not have been obvious to a person skilled in the art to combine the Stinson

et al and Fontana references to obtain the invention as claimed in independent claims 11, 26, 34 and 39.

It is therefore now believed that all of the pending claims in the present application, namely, claims 11, 15-19, 21, 22, 26, 34 and 39 contain limitations and restrictions which patentably distinguish them over the cited prior art including the Fontana and Stinson et al references. None of the cited references, either alone or in any combination thereof, disclose or suggest all of the novel features associated with the present process, nor do the prior art constructions provide the specific advantages and objectives obtained by the present process. Favorable action and allowance of the claims is therefore respectfully requested.

If any issue regarding the allowability of any of the pending claims in the present application could be readily resolved, or if other action could be taken to further advance this application such as an Examiner's amendment, or if the Examiner should have any questions regarding the present amendment, it is respectfully requested that the Examiner please telephone Applicant's undersigned attorney in this regard.

Respectfully submitted,

Date: 31 JAN 07

Samuel Digirolamo
Reg. No. 29,915
Blackwell Sanders Peper Martin LLP
720 Olive Street, Suite 2400
St. Louis, MO 63101
314-345-6000
ATTORNEYS FOR APPLICANT